



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304; NRC-2011-0145]

ZionSolutions, LLC

Zion Nuclear Power Station, Units 1 and 2

Exemption from Certain Requirements

1.0 BACKGROUND

Zion Nuclear Power Station (ZNPS) Units 1 and 2 were permanently shut down in February 1998, for economic reasons. On February 13, 1998, Commonwealth Edison Company (ComEd), the ZNPS licensee at that time, submitted a letter certifying the permanent cessation of operations at ZNPS, Units 1 and 2 (Agencywide Documents and Access Management System (ADAMS) Accession No. 9802200407). On March 9, 1998, ComEd submitted a letter certifying the permanent removal of fuel from the reactor vessels at ZNPS (ADAMS Accession No. 9803110251). Pursuant to section 50.82(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), upon docketing of the certification for permanent cessation of operations and permanent removal of fuel from the reactor vessels, the 10 CFR part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. On May 4, 2009, the NRC issued the order to transfer the ownership of the permanently shut down ZNPS facility, and responsibility for its decommissioning to *ZionSolutions* (ZS), a subsidiary of *EnergySolutions* (ADAMS Accession No. ML090930037). This transfer was effectuated on September 1, 2010 (ADAMS Accession No. ML102290437). ZS was established solely for the purpose of acquiring and decommissioning the ZNPS facility for release for unrestricted use, while transferring the spent nuclear fuel and Greater-Than-Class C (GTCC) radioactive waste to the ZNPS Independent Spent Fuel Storage Installation (ISFSI).

Section 50.82(a)(8)(i)(A) states that decommissioning trust funds may be used by licensees if the withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in 10 CFR 50.2. The definition of decommissioning in 10 CFR 50.2 reads as follows:

“to remove a facility or site safely from service and reduce residual radioactivity to a level that permits-

- (1) Release of the property for unrestricted use and termination of the license; or
- (2) Release of the property under restricted conditions and termination of the license.”

Similar to 10 CFR 50.82(a)(8)(i)(A), provisions of 10 CFR 50.75(h)(1)(iv) and (h)(2) dictate that, with certain exceptions, disbursements from nuclear decommissioning trusts “are restricted to decommissioning expenses.” However, in accord with 10 CFR 50.75(h)(5), these provisions do not apply to “any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions.” The operating licenses for ZNPS included “existing license conditions relating to decommissioning trust agreements” on December 24, 2003, and as such, ZNPS is exempt from the provisions of paragraphs (h)(1) through (h)(3) of the regulations in 10 CFR 50.75, pursuant to the terms of 10 CFR 50.75(h)(5).

2.0 REQUEST / ACTION

On June 4, 2013, (ADAMS Accession No. ML13157A05), ZS, pursuant to 10 CFR 50.12, “Specific Exemptions,” submitted a request for an exemption from 10 CFR 50.82(a)(8)(i)(A), for the ZNPS. According to the licensee, the proposed exemptions would confirm ZS’s authorization to use funds from the nuclear decommissioning trusts for irradiated fuel management, consistent with the ZNPS updated Irradiated Fuel Management Plan and Post Shutdown Decommissioning Activities Report (PSDAR).

3.0 DISCUSSION

Pursuant to 10 CFR 50.12, "Specific exemptions," the Commission may grant exemptions from the regulations in part 50 either upon application by any interested person or on its own initiative, if it determines the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and special circumstances are present.

The proposed exemptions would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) is to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors within 60 years of permanent cessation of operations. Based on the site-specific cost estimate and the cash flow analysis, the use of the nuclear decommissioning trusts funds in the proposed manner will not adversely impact ZS's ability to complete the prompt radiological decommissioning of the ZNPS site and ultimately to terminate the ZNPS licenses within 60 years, consistent with the schedule and costs contained in the ZNPS's PSDAR. Therefore, the underlying purpose of the regulation will continue to be met. Since the underlying purpose of the rule will continue to be met, the exemption will not present an undue risk to the public health and safety.

Section 50.82(a)(8)(i)(A) could limit the withdrawal of funds from the nuclear decommissioning trusts for activities directly associated with irradiated fuel management until the ZNPS licenses have been terminated. However, the ZNPS licenses cannot be terminated unless the irradiated fuel is managed until such time that the U.S. Department of Energy takes possession of the irradiated fuel. Moreover, the site-specific decommissioning cost analysis demonstrates that adequate funds are reasonably available in the nuclear decommissioning trusts to both manage the irradiated fuel and to complete all decommissioning and

decontamination activities, including the activities necessary to proceed down the path toward ultimate license termination. Additionally, the NRC has already acknowledged the accumulation of non-NRC dedicated funds in the nuclear decommissioning trust funds in the safety evaluation report (SER) for the ZNPS license transfer to ZS. Finally, additional assurances have been provided to assure the availability of funds for radiological decontamination and decommissioning, including a \$200 million irrevocable letter of credit with the JPMorgan Chase Bank, N.A. The adequacy of the nuclear decommissioning trusts to cover the cost of activities associated with the different elements of decommissioning (including the irradiated fuel management) is supported by a site-specific decommissioning cost analysis. Based on the above, special circumstances are present.

The NRC staff finds that the use of the nuclear decommissioning trusts as contemplated by the Irradiated Fuel Management Plan and PSDAR will not adversely affect ZS's ability to physically secure the site or protect special nuclear material. Security plan changes to accommodate the movement of the irradiated fuel to the ISFSI were approved by the NRC on December 12, 2013, (ADAMS ML13310C058) consistent with the Irradiated Fuel Management Plan and PSDAR. Therefore, the proposed exemptions are consistent with the common defense and security.

The NRC staff finds that the proposed exemptions would confirm the availability for use of the nuclear decommissioning trust funds for irradiated fuel management activities in accordance with the ZNPS updated Irradiated Fuel Management Plan required by 10 CFR 50.54(bb) as well as the PSDAR. The NRC staff finds that there is reasonable assurance that adequate funds are available in the nuclear decommissioning trusts to complete all activities associated with license termination and irradiated fuel management. There is no decrease in safety associated with the nuclear decommissioning trusts being used to fund activities associated with irradiated fuel management.

These conclusions are discussed further in the staff's SER. (ADAMS Accession No. ML14030A602).

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and that special circumstances are present. Therefore, the Commission hereby grants *ZionSolutions* an exemption from the requirements of 10 CFR 50.82(a)(8)(i)(A) to authorize ZS to use nuclear decommissioning trust funds to manage irradiated fuel in accordance with the updated Irradiated Fuel Management Plan and PSDAR.

Pursuant to 10 CFR 51.22(c)(25), the Commission has determined the granting of this exemption is categorically excluded, and pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared. The exemption involves surety requirements, as described in 10 CFR 51.22(c)(25)(vi)(H). Approval of this exemption request involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. These exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 21th day of July 2014.

FOR THE NUCLEAR REGULATORY COMMISSION

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